persons' privileges to pass along it. *Davis v. County Comrs.* (1891) 153 Mass. 218, 26 N. E. 848. The county is under no *duty* to non-abutting owners not to exercise that power. *Enders v. Friday* (1907) 78 Neb. 510, 111 N. W. 140; but see *Falender v. Atkins* (1917, Ind.) 114 N. E. 965. And "non-abutting owners" seem to include those whose property touches only the end of the road. *Kingshighway Supply Co. v. Banner Iron Co.* (1915) 266 Mo. 138, 181 S. E. 30. But all courts recognize that an abutter has an interest in access to his land by the highway, and, recognizing a *de facto* condition, have laid a duty on the county, to the abutter, not to extinguish his interest by abandoning the road. Nor can a statute do away with this duty. *Coyne v. Memphis* (1907) 118 Tenn. 651, 102 S. W. 355. The stranded owner has no power to condemn an easement of way into his land; the purpose would be private. But resort is had in his favor to the law of eminent domain. Some courts hold the abutter's interest—his "special easement," "appurtenant to his land"—to be "property" which is "taken" by an abandonment. *Cincinnati, etc. R. v. Cumminsville* (1863) 14 Ohio St. 523; see also *Bigelow v. Ballerino* (1896) 111 Cal. 559, 44 Pac. 307. This is certainly sound so far as it holds the legal relation, the *privilege* of passage, to be property. *Cf.* (1918) 28 YALE LAW JOURNAL, 171. And it may be that "taking for the public use" fairly covers the destruction for private benefit of an individual's privilege or other property, even without the acquisition by the public of any corresponding interest. Some courts, however, unwilling to so construe "'taking," or unable to think of property save as a physical thing, have refused compensation. See *Hunt v. Atlanta* (1897) 100 Ga. 274, 28 S. E. 65. This has been largely remedied by statutes requiring compensation for *damaging* as well as for *taking* property in the public interest. 15 L. R. A. (N. S.) 49, note, at p. 56. Under such statutes, and even under the first-mentioned line of decisions, compensation would seem requisite where access was cut off from one direction only—the *cul-de-sac* cases—or made more difficult: longer or steeper. But as the damage becomes less appreciable, the cases fall into the tone of police power cases generally; compensation is given or not, at bottom, according as the court feels the individual loss thrown on the plaintiff to be only a little, or outrageously much, greater than that suffered by the public at large. *Cf.* (1918) 27 YALE LAW JOURNAL, 393. The actual decisions conflict generously. *Vanderburgh v. Minneapolis* (1906) 98 Minn. 329, 108 N. W. 480, 6 L. R. A. (N. S.) 269 (recovery; "consequential" damage to property); *McCann v. Clark County* (1910) 149 Iowa, 13, 127 N. W. 1011. *Contra, Stanwood v. Malden* (1892) 157 Mass. 17, 31 N. E. 702 (mere diversion of traffic; no recovery); *Burkley v. Omaha* (1918, Neb.) 167 N. W. 72. Another prolific source of conflict is the attempt—believed improper—which is made by some courts to found the right of recovery on an implied term in the contract of dedication of the highway; this has led to distinctions between city streets and county roads, and between land fronting on the side and on the end of a road which, it is submitted, run counter to common sense. *Cf. Levee District v. Farmer* (1894) 101 Cal. 178, 35 Pac. 569; *Bradbury v. Walton* (1893) 94 Ky. 163, 21 S. W. 869; *Kingshighway Supply Co. v. Banner Iron Co., supra.*

EMINENT DOMAIN—TAKING FOR A PRIVATE PURPOSE—LIABILITY FOR INSTITUTING PROCEEDINGS.—The defendant water company instituted proceedings to condemn the plaintiff's land, professedly for a public but in fact for a private purpose. The proceedings were abandoned before the determination of compensation and the plaintiff brought an action in tort for damages sustained in being hindered and delayed in the timbering operations on his land. There was no physical interference with the possession of the plaintiff. *Held,* that the plaintiff could recover the actual damages suffered. *Sidelinker v. York Shore Water Co.* (1918, Me.) 105 Atl. 122.

See COMMENTS, p. 588, *supra.*